

GATT CONCESSIONS UNDER THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

*Decision of 12 July 1983
(L/5470/Rev.1)*

1. Introduction

1.1 The Harmonized Commodity Description and Coding System (H.S.), which was developed in the Customs Co-operation Council, is envisaged by the CCC timetable to be applied, for those countries which decide to adopt it, as the basis for customs tariffs and international trade statistics nomenclatures with effect from 1 January 1987¹.

1.2 In addition to the benefits for trade facilitation and analysis of trade statistics, from a GATT point of view adoption of the Harmonized System would ensure greater uniformity among countries in customs classification and thus a greater ability for countries to monitor and protect the value of tariff concessions.

1.3 The introduction of the Harmonized System implies considerable changes in the GATT schedules of tariff concessions. Some of the changes will be made through the rectification procedure; others are likely to require renegotiation of existing schedules.

1.4 In order to facilitate the wide adoption of the Harmonized System, contracting parties should aim to complete any necessary negotiations under Article XXVIII sufficiently in advance (approximately one year) of the scheduled entry into force of the Harmonized System so as to allow contracting parties adequate time for their required domestic procedures. Based upon past experience, Article XXVIII negotiations should begin a minimum of eighteen months earlier if they are to be completed within this time frame. In order to cope with the amount and complexity of the work involved, considerable discipline will be required and the traditional GATT procedures will have to be simplified and accelerated as much as possible.

1.5 The purpose of this note is to outline the tasks involved and to suggest arrangements for simplifying and facilitating the exercise to the greatest extent possible.

2. Basic principles

2.1 The main principle to be observed in connexion with the introduction of the Harmonized System in national tariffs is that existing GATT bindings should be maintained unchanged. The alteration of existing bindings should only be envisaged where their maintenance would result in undue complexity in the national tariffs and should not involve a significant or arbitrary increase of customs duties collected on a particular product.

2.2 In order to avoid complicating the introduction of the Harmonized System, contracting parties should endeavour to avoid modifying or renegotiating, in the context of the introduction of the Harmonized System, their bindings for reasons not associated with the System.

2.3 In light of paragraphs 2.1 and 2.2 contracting parties should be ready to explain and discuss the reason for their proposed changes where requested. Interested contracting parties will be free to raise specific cases, which the party which has notified the change will examine, taking into account all relevant factors with a view to finding a mutually acceptable solution. If such agreement cannot be reached, the contracting party which has notified the change shall proceed under Article

¹ See Appendix (not reproduced).

XXVIII and subject to the rights under that Article of contracting parties with initial negotiating rights or principal or substantial supplying interests.

2.4 To the extent that the value of existing concessions is not impaired, the conversion of present nomenclatures to the Harmonized System can be done through the rectification procedure².

3. *Negotiations*

3.1 It is very difficult to forecast the number of cases where renegotiations will be required. The fact that one bound tariff line is divided up into a number of new lines, without changing the content of the original line, will not create any problem for the maintenance of the concession. Since, however, the introduction of the Harmonized System will result in a considerable number of cases where tariff lines with different bound rates are combined or bound rates combined with unbound rates, renegotiations under Article XXVIII will in many cases be necessary.

3.2 The guidelines relating to procedures for negotiations under Article XXVIII, adopted by the Council on 10 November³ will be the basis for this exercise. The objective should be to maintain in these bilateral negotiations a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided for prior to such negotiations. However, because of the amount and complexity of the work involved, and the exceptional nature of the exercise, it will be necessary to simplify the guidelines, as indicated below, in order to facilitate the implementation of the Harmonized System.

4. *Proposed Special Procedures*

4.1 Each contracting party adopting the Harmonized System shall supply to the GATT secretariat the following information⁴:

4.1.1 An up-to-date consolidated schedule of concessions in the existing nomenclature in loose-leaf form⁵.

4.1.2 A proposed consolidated schedule of concessions in the nomenclature of the Harmonized System. This schedule should incorporate the Harmonized System nomenclature in the proper order, form, and layout. This document should contain the following information: new tariff schedule number; a complete product description; the proposed rate of duty for the item; and the proposed INR(s) for the item. If practicable, this document should also contain information on historical initial negotiating rights and other information required for loose-leaf schedules.

4.1.3 A concordance table from the existing to the proposed consolidated schedules of concessions. For each item in the contracting party's existing schedule, this document should indicate the following information: (1) the item number and an abbreviated product description; (2) the corresponding item(s) in Annex 2; (3) the existing and the proposed rates of duty (with an asterisk aside the proposed rate(s) of duty when it (they) differ(s) from the existing rate); (4) the initial

² See BISD 27S/25-26.

³ BISD 27S/26.

⁴ The question of the presentation of the data mentioned in this paragraph is subject to further discussion in the Committee on Tariff Concessions but it has already been agreed that delegations should have a certain flexibility in this regard. Samples of the annexes can be found in document TAR/W/25/Rev.2.

⁵ See BISD 27S/22.

negotiating right status for the existing item; (5) the percent of total imports in the existing item which has been allocated to each of the proposed items; and (6) the value of trade allocated to each of the proposed new items for the most recent three years for which import statistics are available⁶. Items (5) and (6) above need not be supplied if there is no change in either the proposed rate of duty or the initial negotiating right status from the existing tariff line. The proposed new concession rates should be annotated with a symbol indicating how they were arrived at.

4.1.4 A concordance table from the proposed to the existing consolidated schedules of concessions. For each item in the contracting party's proposed schedule, this document should contain the following information: (1) the item number and a brief product description; (2) the corresponding item number(s) from Annex 1; (3) the existing and the proposed rates of duty (with an asterisk aside the proposed rate(s) when different from the existing rate(s)); (4) the INR status for the existing item; (5) the percent of trade in the existing item allocated to the proposed item; and (6) for the most recent three years, the value of trade of the existing item(s) allocated to the new item and the percent of trade in the proposed item accounted for by each component existing item¹. Information required under (5) and (6) above need not be supplied for items where there are no proposed changes in rates of duty or in INR status.

4.1.5 A list of items proposed for certification. For each item in the contracting party's existing schedule proposed for certification, this document should contain the information specified in paragraph 4.1.3 above.

4.1.6 A list of items for renegotiation. For each item in the contracting party's existing schedule which requires renegotiation, this document should contain the information specified in paragraph 4.1.3 above.

4.2 Where contracting parties consider it unavoidable to combine headings or parts of headings in implementing the Harmonized System they may have to modify certain of their existing concessions. Possible ways of arriving at new rates include:

4.2.1 Applying the lowest rate of any previous heading to the whole of the new heading.

4.2.2 Applying the rate previously applied to the heading or headings with the majority of trade.

4.2.3 Applying the trade weighted average rate of duty for the new heading.

4.2.4 Applying the arithmetic average of the previous rates of duty, where no basis exists for establishing reasonably accurate trade allocations.

4.3 If a contracting party considers that the conversion of a concession, which has been notified as a rectification case by another contracting party, in effect impairs the value of the concessions and should have been notified for renegotiation under Article XXVIII, the first contracting party, having demonstrated at least its substantial interest in the concession, is free to request, in accordance with normal practice in rectification exercises, that the concession be restored (or, failing, that the item concerned be notified for renegotiation).

4.4 Contracting parties should, as soon as possible, provide information on their envisaged timetable and domestic procedures for the implementation of the Harmonized System.

⁶ Apart from import figures for each separate year, there should also be an indication of the average figure for the three-year period.

4.5 Consistent with Part IV of the GATT special account would be taken of the needs of developing countries.

Conclusion

5.1 It is clear that the implementation of the Harmonized System will involve a great deal of work for contracting parties both domestically and in the GATT. It will speed up the examination of the documentation listed under 4 above by other contracting parties, if the submitting contracting party would send the documentation in instalments, even if in a preliminary form, rather than wait until the complete documentation is available. It is not, however, envisaged that renegotiations could start until contracting parties have an overall view of modifications to be made in another contracting party's schedule. It would, nevertheless, be a considerable gain if the examination of the "rectification part" of the new schedules could begin at as early a date as possible.

5.2 The complexity of this exercise should not be underestimated and it is, therefore, essential that contracting parties should recognize the timing constraints mentioned in Section 1 and respect the procedures set out in Section 4.